

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

CORESLAB STRUCTURES (TULSA)  
INC.

Cases: 14-CA-248354  
14-CA-248812

and

INTERNATIONAL UNION OF  
OPERATING ENGINEERS, LOCAL 627,  
AFL-CIO

**CORESLAB STRUCTURES (TULSA) INC.'S  
EXCEPTIONS TO ADMINISTRATIVE  
LAW JUDGE ROBERT A. RINGLER'S DECISION**

Pursuant to Section 102.46 of the National Labor Relations Board's Rules and Regulations, Coreslab Structures (Tulsa) ("Coreslab") respectfully files the following exceptions to the February 11, 2021, Decision of Administrative Law Judge ("ALJ") Robert A. Ringler ("Decision").<sup>1</sup>

**I. Exceptions Applicable to Multiple Findings, Rulings, and Conclusions of the ALJ**

1. To the numerous credibility determinations (D. 2:22-24, 30-32; 3:15-17, 23-25, 29-32; 4:24-27; 5:1-2, 14-18; 7:8-9, 40-41; 8:13-18; 10:43 – 11:10; 12:11-36; ), as these are contrary to the substantial evidence in the record as a whole. (CS 1-20) (J 1-20) (Tr. 40:8-12, 18-25; 41:1-6; 47:20-25; 48:1-21; 49:16-22; 50:11-18; 51:2-

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<sup>1</sup> References to the ALJ's Decision are identified by the letter "D" followed by page and line number, e.g., "D. \_\_\_\_:\_\_\_\_." References to the hearing transcript are by the letters "Tr." followed by page and line number, e.g., "Tr. \_\_\_\_:\_\_\_\_." References to exhibits introduced by the General Counsel are by the letters "GC" followed by exhibit number, e.g., "GC \_\_\_\_". References to exhibits introduced Jointly are by the letter "J" followed by exhibit number, e.g., "J \_\_\_\_." Finally, references to exhibits introduced by Coreslab Tulsa are by the letters "CS" followed by exhibit number, e.g., "CS \_\_\_\_."

<sup>2</sup> Headings and subheading are provided merely as an aid to assist the review of the record and do not qualify or limit the scopes of the exceptions.

25; 52:1-25; 53:10-25; 54:1; 56:3 – 58:16; 60:19-25; 61:1-17; 62:19-25; 63:1-13, 22-25; 64:1-10; 68:4-25; 69:1-24; 71:13-21; 72:3-23; 73:14-22; 75:1-11; 76:4-10; 77:2-15; 79:20-22; 80:5-12; 85:15-20; 86:13-25; 87:1 – 88:6; 88:24 – 95:1; 95:19 – 99:5; 100:19-23; 101:4 – 105:7; 105:15 – 107:5; 109:25 – 110:1; 112:15 – 116:22; 121:13 – 124:8; 125:23-25; 126:18 – 129:21; 133:3-13; 134:5 – 137:12; 157:4-13; 158:10-25; 159:17-24; 172:22-25; 184:4-16; 185:6 – 187:14; 192:2-6; 195:1 – 198:21; 200:14 – 210:16; 212:7-11; 217:3-10; 221:24 – 222:1-7; 226:3-6; 227:23 – 229:11; 329:18 – 335:15; 380:9 – 383:21; 385:1-22; 400:14 – 401:5; 404:1-5; 415:7; 445:8-21; 451:5-8; 454:20 – 455:1; 495:16-24; 496:6 – 501:17; 702:1-11).

2. To the improper application of a blanket acceptance of General Counsel's witnesses while discounting Coreslab's witnesses (D. 4 fn. 11), as this is contrary to the substantial evidence in the record as a whole. (*See generally* Tr. 1-756).
3. To the failure to consider large portions of the record by disregarding and ignoring Coreslab's testimony and record evidence. (CS 1-20) (J 1-20) (*See generally* Tr. 1-756).

**II. To the conclusions of law (D. 13:1-14:13), as the preponderance of the evidence, much of which is not considered or addressed in the decision, does not support any of those conclusions. (CS 1-20) (Tr. 1-756).**

4. To the ALJ's ruling, that Coreslab owns 17 plants in North America, without citing to the record or any other evidentiary support. (D. 2:10-16).
5. To the ALJ's ruling that Coreslab inexplicably stopped paying pension monies on behalf of all bargaining unit employees, and that this was secretly undertaken, as this is contrary to the law and the weight of the evidence. (D. 2:26-32) (Tr. 126;

154; 155; 345; 351; 359; 532-35; 549; 555; 669-70; 671-72; 673; 674-75; 676; 677; *see generally* Tr. 1-756).

6. To the ALJ's ruling that Coreslab inexplicably provided profit sharing monies to bargaining unit employees who were non-Union-dues payers, and that this was secretly undertaken, as this is contrary to the law and the weight of the evidence. (D. 2:34-39) (Tr. 126; 154; 155; 345; 351; 359; 532-35; 549; 555; 669-70; 671-72; 673; 674-75; 676; 677; *see generally* Tr. 1-756).
7. To the ALJ's ruling that Coreslab had underpaid the Central Pension Fund, as this is contrary to the law and the weight of the evidence. (D. 3:1-8) (Tr. 126; 154; 155; 345; 351; 359; 532-35; 549; 555; 669-70; 671-72; 673; 674-75; 676; 677; *see generally* Tr. 1-756).
8. To the ALJ's insinuation that Coreslab extended the CBA in bad faith, as this is contrary to the law and the weight of the evidence. (D. 3:9-7) (*See generally* Tr. 1-756).
9. To the ALJ's ruling that Drews' comments, which amounted to no more than generalized expressions of an employer responding to employee concerns, violated the Act, as this is contrary to the law. (D. 3:34-4:26) (*See generally* Tr. 1-756).
10. To the ALJ's finding that lawful statements are unlawful in the context of addressing employee questions, which is contrary to the law. (D. 3:34-4:26) (*See generally* Tr. 1-756).
11. To the finding that Drews unlawfully communicated with employees at the August meeting, which is contrary to the law and the substantial weight of the record. (D. 3:34-4:26; 12:11-31) (*See generally* Tr. 1-756).

12. To the finding that Drews “blamed the Union and CPF” and that it was not material whether Drews’ statements were connected to specific employee concerns, which is contrary to the law and the weight of the evidence. (D. 3:34-38; 4:1-28) (*See generally* Tr. 1-756).
13. To the ALJ’s ruling that the Union was unaware that Coreslab bargaining unit employees participated either in the Union-sponsored pension plan or Employer-sponsored profit sharing plan, as it is contrary to the law and the weight of the evidence. (Complaint, ¶ 8(a)-(h)) (D. 4:29-5:10; 7:1-8:19) (Tr. 126; 154; 155; 345; 351; 359; 532-35; 549; 555; 669-70; 671-72; 673; 674-75; 676; 677; *see generally* Tr. 1-756).
14. To the ALJ’s failure to consider the evidence regarding Coreslab’s past practice of providing profit sharing benefits to non-Union dues-paying bargaining unit employees and find that this past practice rendered any alleged discriminatory application lawful, which is contrary to the law and the substantial weight of the record. (D. 7 fn. 17) (Tr. 126; 154; 155; 345; 351; 359; 532-35; 549; 555; 669-70; 671-72; 673; 674-75; 676; 677).
15. To the ALJ’s finding that stewards are voluntary, working Unit members who do not possess any specialized training in labor law, which is contrary to the weight of the evidence. (D. 5, fn. 12) (Tr. 126; 154; 155; 345; 351; 359; 532-35; 549; 555; 669-70; 671-72; 673; 674-75; 676; 677).
16. To the ALJ ignoring relevant case law regarding stewards as not being agents of a union, which is contrary to the law and the weight of the record evidence. (D. 8:11-

19, fn. 20) (Tr. 126; 154; 155; 345; 351; 359; 532-35; 549; 555; 669-70; 671-72; 673; 674-75; 676; 677) (GC-11(a); 12).

17. To the ALJ's failure to apply the Board's reasoning in *Tyson Fresh Meats, Inc.*, 343 NLRB 1335 (2004); *A&M Wall-Board*, 318 NLRB 196, 196 at n.3 (1995); *Courier-Journal*, 342 NLRB 1093 (2004); *Baytown Sun*, 255 NLRB 154, 160 (1981) and find that Prince was a Union steward and an agent, therefore imputing his knowledge regarding Respondent's profit sharing plan to the Union. . (D. 8:11-19, fn. 20) (Tr. 126; 154; 155; 345; 351; 359; 532-35; 549; 555; 669-70; 671-72; 673; 674-75; 676; 677) (GC-11(a); 12).
18. To the ALJ's finding that Coreslab failed to respond to the Union's September 16, 2019, request for information, which is unsupported by the evidence. (D. 5:20-35; 8:20-26; 9:1-10) (*See generally* Tr. 1-756).
19. To the ALJ's finding that Coreslab failed to bargain in good faith over a successor agreement, which is unsupported by the law and the evidence. (D. 9:11-15) (*See generally* Tr. 1-756).
20. To the ALJ's finding that Coreslab acted in bad faith, which is unsupported by the law or the weight of the evidence. (D. 9:29-10:1) (*See generally* Tr. 1-756).
21. To the ALJ's finding that several unremedied ULPs prompted the disaffection that led to the petition, which misstates the law and evidence in the record. (9:4-6; 9:30-11:10; 11:12-19) (*See generally* Tr. 1-756).
22. To the ALJ's finding where he *sua sponte* amended the Complaint, as this is contrary to the law as explained in the NLRB's Case-Handling Manual: "After the hearing opens, the complaint may only be amended on motion by the General

- Counsel. The judge may not amend the complaint over the GC's objection or in a manner inconsistent or contrary to the GC's motion." Section 3-310. (D. 11 fn. 25).
23. To the ALJ's finding that Coreslab unlawfully failed to provide profit sharing to Unit employees, as this is contrary to the law and is unsupported by the evidence. (D. 11:20-24; 11:32-12:4; 12:5-9) (*See generally* Tr. 1-756).
24. To the ALJ's finding that the GC established animus, as it is contrary to the law, including under Section 8(c) of the Act, and is unsupported by the evidence. (D. 12:11-31) (*See generally* Tr. 1-756).
25. To the ALJ's finding that Coreslab failed to explain why it provided non-Union-dues-paying employees access to profit sharing, as it is unsupported by the evidence. (D. 12:33-36) (*See generally* Tr. 1-756).
26. By essentially applying a *Wright Line* analysis to shift the Section 8(a)(3) burdens of proof to Respondent without requiring the General Counsel to establish a *prima facie* case under *Wright Line*. (D. 12:5-10).
27. To the ALJ's ruling that Plant Manager Danny Johnson barred a non-Coreslab employee from talking to Union Business Agent Justin Evans during non-working time in the breakroom, as this is contrary to the law and substantial weight of the record. (Complaint, ¶ 5) (D. 3:24-33; 12:11-12) (*See generally* Tr. 1-756).

### **III. Exceptions to the Remedy and Recommended Order Imposed by the ALJ.**

28. To the cease and desist remedy, as it is contrary to the law and substantial weight of the record. (D. 14:15-19:10) (*See generally* Tr. 1-756).
29. To the retroactive grant of profit sharing benefit remedy, as it is contrary to the law and substantial weight of the record. (D. 14:15-19:10) (*See generally* Tr. 1-756).

30. To the grant of profit sharing benefit remedy, as it is contrary to the law and substantial weight of the record. (D. 14:15-19:10) (*See generally* Tr. 1-756).
31. To the remedy regarding the Union's request for information, as it is contrary to the law and substantial weight of the record. (D. 14:15-19:10) (*See generally* Tr. 1-756).
32. To the affirmative bargaining order remedy, as it is contrary to the law and substantial weight of the record. (D. 14:15-19:10) (*See generally* Tr. 1-756).
33. To the contributions to the Central Pension Fund remedy, as it is contrary to the law and substantial weight of the record. (D. 14:15-19:10) (*See generally* Tr. 1-756).
34. To the personal contributions to the extent an employee made them remedy, as it is contrary to the law and substantial weight of the record. (D. 14:15-19:10) (*See generally* Tr. 1-756).
35. To the reimbursing the Union with interest for dues remedy, as it is contrary to the law and substantial weight of the record. (D. 14:15-19:10) (*See generally* Tr. 1-756).
36. To the notice remedy, as it is contrary to the law and substantial weight of the record. (D. 16:30-19:10) (*See generally* Tr. 1-756).
37. To the Recommended Order, as it is contrary to the law and substantial weight of the record. (D. 16:30-19:10) (*See generally* Tr. 1-756).

#### **IV. Request For Oral Argument**

As discussed more fully in Coreslab's Brief in Support of Exceptions to ALJ's Decision, oral argument will aid the Board's understanding of the voluminous record and numerous issues

presented, the broader context in which the evidence should be viewed, and the unique considerations of public interest presented in this case.

## **V. Conclusion**

For these reasons, Coreslab respectfully asks that the Amended Complaint, and all underlying charges be dismissed in their entirety; that the Exceptions of Coreslab be granted; and that the Decision of the ALJ be reversed.

Respectfully submitted this 19<sup>th</sup> day of April, 2021.

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By \_\_\_\_\_

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